

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

GREGORY OWEN THORNTON,  
Plaintiff,  
v.  
DAVID B. HILL, et al.,  
Defendants.

No. 02-CV-3025-MWL

ORDER GRANTING DEFENDANT'S MOTION  
FOR A PROTECTIVE ORDER AND  
SCHEDULING HEARING ON TERMS OF  
PROTECTIVE ORDER

Defendant moved for an order disqualifying Plaintiff's counsel. (Ct. Rec. 88.) On April 15, 2005, the Court heard telephonic argument on the motion. George Kolin appeared for Plaintiff. Kirk Ehliis and Scott Beyer appeared for Defendants.

Privileged material came into Plaintiff's counsel's possession in June of 2003. The documents appear to be original papers. How and by whom such original documents were given to plaintiff is unknown. Plaintiff's counsel promptly advised defendants of the materials. Defendants' counsel made no requests regarding the material until January of 2005.

Disqualification of counsel is a drastic remedy and should only be granted when necessary.

During argument, defendants' counsel acknowledged that initially they (defendants) requested a protective order. It was only after plaintiff's counsel refused to enter into a protective

1 order that defendants' counsel moved for disqualification.

2 Plaintiff did not use the materials except in responding to  
3 these motions.

4 It appears to the Court that a protective order will protect  
5 the privileged information, and that under the facts of this case,  
6 the drastic remedy of disqualifying plaintiff's counsel is not  
7 appropriate.

8 After considering the pleadings and arguments of counsel,

9 **IT IS ORDERED** that the motion to disqualify counsel (Ct. Rec.  
10 88) is **DENIED**.

11 **IT IS ORDERED** that defendant's motion for a protective order is  
12 **GRANTED**.

13 **IT IS ORDERED** that a telephonic hearing will be held to  
14 determine the terms of the protective order, and to determine  
15 whether further sealing of documents is required. The parties are to  
16 call the Court's conference line at (509) 372-1234 at **11 A.M. on**  
17 **Thursday, MAY 12, 2005**.

18 **IT IS ORDERED** that plaintiff's counsel will take possession and  
19 hold the privileged material, including the red-stamped originals  
20 and all copies, pending further hearing.

21 **IT IS FURTHER ORDERED** that the District Court Executive shall  
22 forward copies of this order to the parties.

23 **DATED** this 18th day of April, 2005.

24  
25 s/ Michael W. Leavitt

26 MICHAEL W. LEAVITT

27 United States Magistrate Judge  
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